



BOARD OF SUPERVISORS OF FAUQUIER COUNTY

**WARREN GREEN BUILDING
10 HOTEL STREET
WARRENTON, VIRGINIA 20186**

MINUTES

***A MEETING OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS WAS HELD
JUNE 10, 2010 AT 11:00 A.M. IN WARRENTON, VIRGINIA***

P R E S E N T Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz;
Mr. Chester W. Stribling; Mr. R. Holder Trumbo; Mr. Paul S. McCulla,
County Administrator; Mr. Kevin J. Burke, County Attorney

A B S E N T None

AGENDA REVIEW

The Board of Supervisors reviewed the agenda.

A CLOSED SESSION PURSUANT TO CODE OF VIRGINIA SECTION 2.2-3711(A)(7) TO CONSULT WITH LEGAL COUNSEL REGARDING POTENTIAL ACQUISITION OF PROPERTY AND TO ALSO DISCUSS POTENTIAL LITIGATION INVOLVING T- MOBILE REGARDING A PROPOSED SECOND CELLULAR TOWER AT MARKHAM, VIRGINIA

Mr. Nyhous moved to go into a closed meeting, pursuant to Virginia Code Section 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel regarding potential acquisition of property and to also discuss potential litigation involving T-Mobile regarding a proposed second cellular tower in Markham, Virginia. Following discussion and upon the motion being seconded, the vote was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. R. Holder Trumbo; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

Upon reconvening from the closed meeting, Mr. Nyhous moved, without objection, to adopt the following certification:

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Fauquier County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712.D of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia Law; now, therefore, be it

RESOLVED this 10th day of June 2010, That the Fauquier County Board of Supervisors certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Fauquier County Board of Supervisors.

A WORK SESSION TO DISCUSS THE PROPOSED ORDINANCE AMENDMENT TO CHAPTER 17 - SEWERS AND SEWAGE DISPOSAL OF THE FAUQUIER COUNTY CODE

Frederick P.D. Carr, Director, of the Department Community Development, and James Sawyer, Soil Scientist, reviewed with the Board of Supervisors a proposed Ordinance amendment to Chapter 17 of the Fauquier County Code to address changes to septic treatment technology since its adoption and changes to State regulation and code.

A WORK SESSION TO REVIEW THE WHITE MARSH REZONING APPLICATION

Holly Meade, Senior Planner, and Donald Tharpe, Applicant, provided an overview of the White Marsh rezoning application (REZN08-LE-005) in which the applicant is seeking to rezone 97 acres to the Mixed Use - Bealeton District.

A WORK SESSION TO REVIEW THE WATER RESOURCE MANAGEMENT PROGRAM

Denise M. Harris, Program Manager, briefed the Board of Supervisors on the current projects and legislative mandates of Fauquier County's Water Resource Management Program, including discussion of groundwater needs and the Regional Water Supply Plan in relation to drinking water supplies.

A WORK SESSION TO REVIEW AND DISCUSS THE VIRGINIA RETIREMENT SYSTEM'S (VRS) PLAN 2

Janelle Downes, Director of Human Resources, and Paul S. McCulla, County Administrator, reviewed legislation passed during the 2010 session of the Virginia General

Assembly, implementing new plan provisions for employees hired or rehired on or after July 1, 2010 with no prior Virginia Retirement System (VRS) service. The new plan is called the VRS Plan 2.

A WORK SESSION TO DISCUSS FARM EQUIPMENT ROAD SAFETY

Susan Eddy, Chief of Planning, introduced Wayne Arrington and Bruce Stone, Safety Manager for the Virginia Farm Bureau, and also recognized members of the Transportation Committee, Sheriff's Office, and Farm Bureau. Mr. Arrington and Mr. Stone discussed the issue of farm equipment road safety, including problems experienced by farmers with speeding motorists, passing and misunderstood hand signals.

The meeting was reconvened in Regular Session at 6:30 P.M.

INVOCATION

Mr. Trumbo offered the invocation.

PLEDGE OF ALLEGIANCE

Mr. Trumbo led the pledge of allegiance.

ADOPTION OF THE AGENDA

Mr. Graham moved to adopt the agenda with the following changes. Mr. Stribling seconded, and the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

- Add new Consent Agenda Item 6(f) A Resolution to Approve Addendum A to the Virginia Department of Agriculture and Consumer Services Purchase of Development Rights Matching Funds Intergovernmental Agreement.
- Add new Consent Agenda Item 6(g), A Resolution to Adopt the Member Agreement to Join the Virginia Association of Counties Group Self Insurance Risk Pool.

CITIZENS' TIME

- Merle Fallon, Esquire suggested that the Board of Supervisors should refund his legal fees to his client, St. Brides Farm, due to alleged delays in the issuance of a land development permit he claimed were caused by County staff.

PROCLAMATIONS AND RECOGNITIONS

- Mr. Schwartz presented to Mr. and Mrs. Mark Hyson and family members, A Proclamation Honoring the Life of James R. Green, Jr.
- Mr. Trumbo presented to Ms. Lucie Morton, A Proclamation Honoring Lucie Morton for Her Contributions to Agriculture in Fauquier County.
- Mr. Trumbo presented to Kevin Jennings, Manager for Kinloch Farm, and Tom Turner of the John Marshall Soil and Water Conservation District, A Proclamation in Recognition of Kinloch Farm for Outstanding Farm Conservation Management Practices Which Includes the Implementation of a Farm Nutrient Management Plan.

CONSENT AGENDA

Mr. Graham moved to adopt the following Consent agenda items. Mr. Trumbo seconded, and the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

Approval of the Minutes of the May 13, 2010 Regular Meeting of the Fauquier County Board of Supervisors

A Resolution Authorizing the County Administrator to Accept on Behalf of Fauquier County a Grant Awarded by the Virginia Department of Fire Programs

RESOLUTION

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO ACCEPT ON
BEHALF OF FAUQUIER COUNTY A GRANT AWARDED BY THE VIRGINIA
DEPARTMENT OF FIRE PROGRAMS

WHEREAS, the Fauquier County Department of Fire/Rescue and Emergency Management was awarded a grant to purchase (8) Laptop Computers in the amount of \$8,000 and does not require any matching funds; and

WHEREAS, the purpose of these computers will be used for fire incident reporting required by the State of Virginia; and

WHEREAS, it is the policy of the Board of Supervisors and Fauquier County that a Governing Body Resolution be done in order to obtain grant funds from the Virginia Department of Fire Programs; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 10th day of June 2010, That the County Administrator be, and is hereby, authorized to execute for and on behalf of Fauquier County, a public entity established under the laws of the Commonwealth of Virginia, the 2010 grant award from the Virginia Department of Fire Programs.

A Resolution Accepting the Proposed Agreement by and Between the Board of Supervisors of Fauquier County on behalf of the Fauquier County Department of Parks and Recreation, and the Fauquier Community Theater Story Painters, Inc. (FCT) for use of the Vint Hill Theater

RESOLUTION

A RESOLUTION ACCEPTING THE PROPOSED AGREEMENT BY AND BETWEEN THE BOARD OF SUPERVISORS OF FAUQUIER COUNTY ON BEHALF OF THE FAUQUIER COUNTY DEPARTMENT OF PARKS AND RECREATION, AND THE FAUQUIER COMMUNITY THEATER – STORY PAINTERS, INC. (FCT) FOR USE OF THE VINT HILL THEATER

WHEREAS, the Board of Supervisors is the owner of a certain parcel of land described as Parcel 13, Vint Hill Farms Station, and the building attached thereto, which is known as the Vint Hill Community Theater, building 188; and

WHEREAS, the Parks and Recreation Board has negotiated an agreement with the Fauquier Community Theater (FCT); and

WHEREAS, the Board and the Parks and Recreation Board desires to allow the theater to be used by the FCT; and

WHEREAS, the Board is the owner of the aforesaid property by virtue of a deed from the National Park Service dated March 21, 2001 and recorded in Deed Book 1048 at page 814 et seq., attached hereto as Exhibit A, which deed restricts the use of the facility to parks and recreation purposes; and

WHEREAS, the Concession Agreement with FCT requires the approval by the Board of Supervisors; and

WHEREAS, FCT intends to study the feasibility of a cooperative agreement with Allegro School for the Arts; and

WHEREAS, the Parks and Recreation Board is now recommending the proposed agreement to the Board of Supervisors for approval; now, therefore, be it

RESOLVED, by the Fauquier County Board of Supervisors this 10th day of June 2010, That the County Administrator be, and is hereby, authorized to execute the Concession Agreement with the Fauquier County Community Theater; and, be it

RESOLVED FURTHER, That the Parks and Recreation Board be granted the authority to extend the agreement for the additional six months, from January 1, 2011 through June 30, 2011, provided that an agreement is reached between FCT and Allegro that is satisfactory to the Parks and Recreation Board.

CONCESSION AGREEMENT

This concession agreement, by and between the Board of Supervisors of Fauquier County on behalf of the Fauquier County Department of Parks and Recreation, and the Fauquier Community Theatre-Story Painters, Inc. (hereafter "FCT") made and dated this 10th day of June, 2010.

Whereas, the Board of Supervisors is the owner of a certain parcel of land described as Parcel 13, Vint Hill Farms Station, and the building attached thereto which is known as the Vint Hill Community Theater, building 188 and

Whereas, the Board and the Parks and Recreation Board desires to allow the theater to be used by the Fauquier Community Theatre-Story Painters, Inc, and

Whereas, the Board is the owner of the aforesaid property by virtue of a deed from the National Park Service dated March 21, 2001 and recorded in Deed Book 1048 at page 814 et seq., attached hereto as Exhibit A, which deed restricts the use of the facility to parks and recreation purposes,

Now, therefore, it is hereby agreed for good and valuable consideration as follows:

I. TERM OF CONCESSION AGREEMENT

The term of this concession agreement shall be for a period of July 1, 2010 through December 31, 2010 with the intent and understanding that FCT and Allegro Community School for the Arts will study the feasibility of cooperative use, care, and improvement of the theater. The agreement may be extended to June 30, 2011 by mutual consent of both parties if an agreement is reached between FCT and Allegro that is satisfactory to the Parks and Recreation Board by December 1, 2010, the extension of time to be used to develop a long-term agreement for use of the theater and a long-term plan for its use, care and improvement. It is the intent of the Parks and Recreation Department to have this long-term agreement in place no later than June 30, 2011.

II. DUTIES OF THE FAUQUIER COMMUNITY THEATRE

a. Scheduling

On January 1 of each year, FCT shall provide Fauquier County Department of Parks and Recreation a copy of the schedule of all activities scheduled for the upcoming year.

b. Subcontracting

FCT shall not assign or permit other organizations to utilize the facility for activities not operated by FCT without the express written permission of the County.

c. Utility Expenses

All utility costs for the use of the building shall be the responsibility of the FCT. All new services or changes to service are to be installed by FCT and will be provided underground to the appropriate junction box provided that the utility permits underground installation. FCT shall have no obligation to extend underground utilities beyond the limits of the County's property boundaries. No new utilities shall be installed without prior written authorization of the Department of Parks and Recreation.

d. Maintenance

Normal operating and preventative maintenance of the building, trailer appurtenant to the building, and equipment servicing the building and trailer including cleaning of the facilities, trash removal, care, repair and maintenance of all mechanical, roof, electrical, plumbing and HVAC equipment, and repair and maintenance of the interior and exterior of the facility and trailer sufficient to maintain the building in its condition at the commencement of use by FCT, reasonable wear and tear excepted. FCT shall perform regular upkeep on the trailer, theater, premises, outbuildings and equipment enclosures and maintain the exterior condition and appearance of the theater and trailer in a manner consistent with the level of maintenance of the County gymnasium and pool facilities. Surfaces which require paint shall be regularly prepared and painted in a workmanlike fashion and the premises shall be kept in a neat, clean and sanitary condition, all in a manner which is acceptable to the County. No unsightly debris shall be visible on the premises. All facilities shall be maintained in a safe and habitable condition. FCT shall clean the theater regularly and after each performance and shall regularly remove trash from the facility. At the termination of this agreement or any extension thereof, the facility shall be returned to its condition at the commencement of occupancy by FCT, reasonable wear and tear excepted.

e. Insurance

FCT shall obtain such insurance as it deems necessary for equipment, supplies, costumes, etc. that are not county property. The Board of Supervisors and the Parks and Recreation Board shall have no responsibility for FCT property. FCT shall maintain acceptable liability insurance for its activities and property and casualty insurance for the building and county/parks and recreation owned contents at all times and provide the County with the certificate or certificates of insurance on an annual basis at the anniversary of this agreement in amounts to be specified by the County's risk manager. FCT shall forthwith provide proof of such insurance at any time upon the request of the County. Notwithstanding any other provision of this agreement, failure to maintain adequate liability, property and casualty insurance shall constitute a material breach of this agreement and shall entitle the cancellation of this agreement without notice or ability to cure.

f. Inspections

Security measures as deemed necessary by FCT. Locks and other physical security measures shall be selected, implemented and maintained by FCT. Inspections shall be performed by Parks and Recreation as well as any approving agencies. The County, its agents or designees may also inspect the property at any time to determine compliance with any other provision of this agreement. FCT shall be given reasonable notice of such inspection and permitted to accompany the inspector.

g. Improvements

Improvements and renovations are to be coordinated with and approved in writing by the Department of Parks and Recreation prior to construction and by all approving agencies as required. All improvements to the facility become the property of the County. Property of FCT not to be considered improvements to the facility include the stage lighting and control equipment, sound equipment and trailer.

h. Permitting

1. Complete an annual vendor permit form.

2. National/Local Compliance - Comply with any National Park Service requirements including any applicable restrictions contained in the deed of the property from the National Park Service to Fauquier County and any other pertinent regulations including Fauquier County Ordinances and applicable regulations of the Department of Parks and Recreation. See deed attached as Exhibit "A" which is incorporated herein.

3. ADA & Non-discrimination Compliance - Keep all activities open to the public, and comply with any access or other Americans with Disabilities Act requirements applicable to the facility, and not discriminate against any person on the basis of age, sex, race, disability or other basis.

i. Non-Profit Status

Maintain 501 (c) (3) status.

j. Facility Use by Department of Parks & Recreation

FCT shall, upon request, permit the County and the Department of Parks and Recreation to use the theater without charge at any time when the theater is available, to the maximum extent possible. A Parks and Recreation Center Attendant or other approved staff will be present at all times during use by the County. Consent to use the theater shall not be unreasonably withheld. Stage lighting, sets, costumes or props shall not be used or disturbed without prior permission of FCT. At a minimum, Fauquier County/the Department of Parks and Recreation shall be permitted to use the facility on Tuesday mornings from 8:00 a.m. to 12:00 noon.

k. Alcoholic Beverages Exclusion

Unless permitted by County Ordinance and State Law, FCT shall prohibit the consumption of alcoholic beverages at the theater.

III. COUNTY AND DEPARTMENT OF PARKS AND RECREATION RESPONSIBILITIES

- a. The Department of Parks and Recreation shall waive any fee for the vendor permit as long as the use of the theater remains consistent with the purpose and intent of this Agreement and the theater is used for theatrical productions and uses incidental thereto.
- b. The Department of Parks and Recreation shall provide FCT road access at the rear of the building for loading and unloading purposes until other arrangements are made for improved access.
- c. The Department of Parks and Recreation shall maintain the grounds immediately surrounding the structure, including mowing, landscaping, and snow removal.
- d. The Department of Parks and Recreation shall provide parking near the theater if and when funding permits. Availability of funds shall be determined at the sole discretion of the County.
- e. The Department of Parks and Recreation retains the right to make improvements to the land which is affected by this agreement that it determines in its sole discretion carry out the mission

of the Department of Parks and Recreation. In the event that FCT fails to properly maintain the condition of the theater in accordance with paragraph 2d. herein or fails to provide adequate access for ADA compliance in accordance with paragraph k. herein, the County may, in its sole discretion, either declare a material breach and terminate this agreement or make necessary repairs and improvements to the theater. The County in its discretion may bill FCT for the entire cost or a portion of any such repair, and failure to pay such bill within 30 days shall constitute a material breach of this agreement. The County shall provide reasonable notice of its intent to make such necessary repair and afford FCT the opportunity to make the repair itself, except where the failure to make the repair potentially affects health, safety and welfare or would result in increased damage to the theater.

- f. Allow use of all equipment located on the facility which is owned by the County and assigned by the County to FCT. FCT shall be responsible during the term of this agreement for care of the equipment and personal property and shall return the same to the county at the expiration of the term of this agreement or any extension thereto, reasonable wear and tear excepted. (Appendix B).
- g. Following any use of the facility by the County or the Department of Parks and Recreation, the Department of Parks and Recreation shall clean and return the facility to its condition prior to use, reasonable wear and tear excepted.

III. GENERAL PROVISIONS

- a. AREA OF AGREEMENT: This agreement shall apply only to the building known as Vint Hill Community Theater, 4225 Aiken Drive.
- b. USE OF FUNDS: Admission fees, user fees or other funds collected by Fauquier County and the Department of Parks and Recreation for Fauquier County events and Parks and Recreation events shall be the property of Fauquier County and FCT shall have no claim to such funds.
- c. AGREEMENT SUBJECT TO BOARD OF SUPERVISORS APPROPRIATION: Any obligation of the Board of Supervisors and the Parks and Recreation Board herein shall be subject to the annual appropriation of the Board of Supervisors.
- d. CONCESSION FEE: In consideration for the continued use of the facility outlined herein, FCT shall remit to the County on or before the last day of each month payment in the amount of \$250 per month. A late fee of 5% shall be assessed for any such fee not paid within 10 days of the due date. The County shall reduce this fee by a mutually agreed upon charge for utilities for the period of time the facility is used by the County or its designees.
- e. TERMINATION: This agreement shall terminate in the event that any term of this agreement is in violation of the terms of the conveyance to the County from the United States, or in the event that the County is prohibited by law, lack of funds, or non-appropriation of funds from complying with the provisions of this agreement. Failure to comply with any material provision of this agreement shall constitute grounds for termination of this agreement upon thirty days written notice, with an opportunity to cure any material breach which is curable during the thirty days. In the event the breach is not cured within 30 days, FCT shall immediately vacate the premises, and shall not be entitled to any damages or reimbursement for the cost of any improvements performed by FCT. All improvements shall remain the property of the County upon the termination of this agreement or any extension thereto.
- f. Attachments: APPENDICES: A and B

- g. NOTICES: Notices under this agreement shall be sent by regular mail to the following addresses:

President
Fauquier Community Theatre –Story Painters, Inc.
P.O. Box 3046
Warrenton, Virginia 20188

Director
Fauquier County Department of Parks and Recreation
320 Hospital Drive, Suite 6
Warrenton, Virginia 20186

Witness the following signatures and seals:

Fauquier County Community Theatre-Story
Painters, Inc.

Date

Fauquier County Board of Supervisors

Date

A Resolution to Amend the FY 2010 Adopted Budget by \$2,354,672

RESOLUTION

A RESOLUTION TO AMEND THE FY 2010 ADOPTED BUDGET BY \$2,354,672

WHEREAS, the Fauquier County Board of Supervisors is charged by the Code of Virginia with the preparation of an annual budget for Fauquier County; and

WHEREAS, on March 31, 2009, the Board of Supervisors adopted the Fauquier County FY 2010 Budget; and

WHEREAS, during the course of the fiscal years certain events occur that necessitate changing the budget plan by increasing or decreasing the total budget; and

WHEREAS, at its meeting on May 6, 2010, the Finance Committee recommended for FY 2010, appropriations of \$58,043, transfers of \$1,520,489 including transfers from the Contingency Reserve of \$178,261; and

WHEREAS, at its meeting on June 3, 2010, the Finance Committee recommended for FY 2010, appropriations of \$2,296,781 and a de-appropriation of \$152; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 10th day of June 2010, That the FY 2010 Budget be, and is hereby, amended in the amount of \$2,354,672 as indicated on the attached summary.

(this section intentionally left blank)

June 10, 2010 Budget Action Summary

Requesting Department	Action	Amount	Category		Explanation
			From	To	
FY 2010					
Commonwealth’s Attorney	Asset Forfeiture Funds	\$2,868	State Funding	Commonwealth’s Attorney	Appropriates State revenue from asset forfeiture proceeds.
County Administration	FAA and Virginia DOAV Grant	\$44,100	Federal and State Funding	Airport Fund	Appropriates Federal and State grant revenue to acquire navigation easements for the Warrenton-Fauquier Airport.
Fire, Rescue & Emergency Management	Local Emergency Management Performance	\$13,000	State Grant	Fire, Rescue & Emergency Management	Appropriates revenue from the Virginia Department of Emergency Management to support local emergency management expenses.
General Services	Marshall Main Street Grant	\$1,172,750	Federal Funding	Capital Improvement Fund	Appropriates TEA-21 grant award for the Marshall Main Street project (design and construction).
General Services	Salem Meeting House TEA Project	\$85,531	Federal Funding	Capital Improvement Fund	Appropriates TEA grant for completion of the Salem Meeting House project.
Management and Budget	Snow Removal	\$173,261	Contingency Reserve	General Services, Airport and Environmental Services	Transfers funding from the Contingency Reserve for snow removal expenses incurred during the winter of 2009-2010.
Management and Budget	Contribution	\$5,000	Contingency Reserve	Business Advisory Committee (BAC)	Transfers funding from the Contingency Reserve for a contribution to the BAC for planning of Fauquier County Sesquicentennial commemoration.
School Division	Greenville Elementary Project	\$987,713	Capital Fund	School Division Capital Reserve	Transfers \$912,713 of the unexpended balance from the completed Greenville Elementary Project to the School Division’s Capital Reserve and \$75,000 to the Southeastern Alternative construction project.
School Division	Reimbursement	\$925,000	School Operating Fund	Capital Improvement Fund	Transfers funding from the School Operating Fund to reimburse the School Division Capital Reserve from funding utilized during the FY 2009 close.
Sheriff	Insurance Recovery	\$3,249	Reimbursement	Sheriff	Appropriates insurance revenue for damages to a Sheriff’s vehicle.
Sheriff	Criminal Alien Assistance Program	\$7,571	Federal Funding	Sheriff	Appropriates Federal grant revenue for detention expenses associated with housing undocumented aliens at the Adult Detention Center.

Requesting Department	Action	Amount	Category		Explanation
			From	To	
Sheriff	Secret Service Task Force	\$1,712	Federal Funding	Sheriff	Appropriates Federal revenue to recoup expenses associated with participation in a Federal investigative task force.
Social Services	Bright Stars	\$54,000	State Funding	Social Services	Appropriates State revenue for the Bright Stars program.
Volunteer Fire and Rescue Association	Virginia Four For Life Program	\$3,599	State Grant	Volunteer Fire and Rescue Association	Appropriates State revenue for the Four for Life Program to match the actual FY 2010 award.
Volunteer Fire and Rescue Association	Warrenton & Remington Project – Debt Service	\$395,959	Volunteer Fire and Rescue Association’s Capital Projects Transfer	Volunteer Fire and Rescue Association	Transfers funds to the appropriate lines for principle and interest on the Warrenton and Remington Fire Station projects.
Volunteer Fire and Rescue Association	Virginia Fire Incident Reporting System Hardware Grant	(\$152)	State Grant	Volunteer Fire and Rescue Association Fund	De-appropriates State revenue to reflect the actual grant award.

A Resolution Initiating a Comprehensive Plan Amendment to Add Property to the Remington Service District and Change the Designation of Property Currently Within the Remington Service District (PIN #6887-66-2431-000, 6887-66-2176-000, 6887-65-4927-000, a Portion of 6887-55-9812-000, a Portion of 6887-66-6080-000, a Portion of 6887-66-9152-000, 6887-66-7397-000, 6887-66-5420-000, 6887-66-7640-000, and a Portion of 6887-66-0512-000)

RESOLUTION

A RESOLUTION INITIATING A COMPREHENSIVE PLAN AMENDMENT TO ADD PROPERTY TO THE REMINGTON SERVICE DISTRICT AND CHANGE THE DESIGNATION OF PROPERTY CURRENTLY WITHIN THE REMINGTON SERVICE DISTRICT

WHEREAS, the Remington Service District Plan was last updated in 2005; and

WHEREAS, the Fauquier County Zoning Ordinance states that when considering Comprehensive Plan Amendments, reasonable considerations should be given to the existing use and character of the area, the availability of infrastructure, the fiscal and community wide impacts and the consistency of the expansion with the orderly development of the Service District; and

WHEREAS, Remington Auto Parts currently occupies the properties with their retail and salvage yard operations; and

WHEREAS, a portion of the properties have been used as a salvage yard since the 1930s; and

WHEREAS, the public necessity, convenience, general welfare and good zoning practice warrant the consideration of an amendment to the Comprehensive Plan to add 10.888 acres described as PIN #6887-66-2431-000, 6887-66-2176-000, 6887-65-4927-000, a portion of 6887-55-9812-000, a portion of 6887-66-6080-000, and a portion of 6887-66-9152-000, to the Remington Service District with a designation of Industrial use and to change the designation on 5.26 acres described as PIN #6887-66-7397-000, 6887-66-5420-000, 6887-66-7640-000 and a portion of 6887-66-0512-000 currently within the Remington Service District from Low Density Residential (1-3 units per acre) use to Industrial use; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 10th day of June 2010, That consideration of an amendment to the Comprehensive Plan to designate the above-described properties as Industrial within the Comprehensive Plan be, and is hereby, initiated.

A Resolution to Approve Addendum A to the Virginia Department of Agriculture and Consumer Services Purchase of Development Rights Matching Funds Intergovernmental Agreement

RESOLUTION

A RESOLUTION TO APPROVE ADDENDUM A TO THE VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES PURCHASE OF DEVELOPMENT RIGHTS MATCHING FUNDS INTERGOVERNMENTAL AGREEMENT

WHEREAS, on February 19, 2002, the Fauquier County Board of Supervisors adopted the Purchase of Development Rights (PDR) Program to acquire conservation easements for the purpose of protecting agriculture, providing open space and ameliorating the impact of development on the County; and

WHEREAS, a total of 7,315 acres have been approved to date by the Fauquier County Board of Supervisors in the PDR Program; and

WHEREAS, Fauquier County has been awarded supplemental State PDR matching funds of approximately \$175,000 by the Virginia Department of Agriculture and Consumer Services; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 10th day of June 2010, That the County Administrator be, and is hereby, authorized to execute Addendum A to the State PDR Matching Funds Intergovernmental Agreement.

A Resolution to Adopt the Member Agreement to Join the Virginia Association of Counties Group Self Insurance Risk Pool

RESOLUTION

RESOLUTION TO ADOPT THE MEMBER AGREEMENT TO JOIN THE VIRGINIA ASSOCIATION OF COUNTIES GROUP SELF INSURANCE RISK POOL

WHEREAS, Fauquier County desires to protect against liability and workers' compensation claims and property losses and to provide for payment of claims or losses for which the county may be liable; and

WHEREAS, the Virginia Association of Counties Group Self Insurance Risk Pool, aka VACoRP, has been established pursuant to Chapter 27 (§ 15.2-2700 et seq.) and Title 15.2 of the code of Virginia; and

WHEREAS, it is desirable for Fauquier County to join the Virginia Association of Counties Group Self Insurance Risk Pool in order to provide a method of risk sharing for liability and workers' compensation claims and property losses;

NOW, THEREFORE, BE IT RESOLVED that the governing body of Fauquier County hereby agrees to the Member Agreement entitled "Member Agreement for Virginia Association of Counties Group Self Insurance Risk Pool" which creates a group fund to pay liability and workers' compensation claims and property losses of the counties and other local agencies joining the Group, and we acknowledge we have received a copy of the pertinent Plan and supporting documents.

BE IT FURTHER RESOLVED that the County Administrator, Paul McCulla, is authorized to execute the member agreement to join the Virginia Association of Counties Group Self Insurance Risk Pool and to act on behalf of Fauquier County in any other matter relative to the Group.

This the 10th day of June, 2010.

ATTEST: _____
Clerk or Secretary

Chairman

APPOINTMENTS

By unanimous consent, the following appointments were approved:

- Library Board - Marshall District: Jack Whiting was reappointed for a four-year term that expires June 30, 2014.

- Rappahannock Emergency Medical Services Council Board - Career/Citizen Representative (incumbent's term expires 6/30/2010) : Dawn McAllister was appointed for a three-year term that expires June 30, 2013.
- Fauquier County Water & Sanitation Authority - Lee District: Paul Blackmer was reappointed for a four-year term that expires June 10, 2014.

SUPERVISORS' TIME

- Mr. Stribling stated that he visited Scott Fisher's fourth grade class at M.M. Pierce Elementary School to speak with students about his role as an elected official; he added that the children were very respectful and he wished to congratulate them for their good behavior. Mr. Stribling stated that last weekend was the Remington Volunteer Fire Department and Rescue Squad carnival and it was a good day; he also reminded everyone to continuing supporting their local volunteer organizations and civic groups. Mr. Stribling announced that the landfill convenience site hours will be changing and will close two days a week beginning in July, and he urged citizens to please be aware of the new hours of operation for the landfill. Mr. Stribling wished everyone a Happy Fourth of July and asked citizens to remember it is a time to celebrate the history of the country.
- Mr. Graham expressed his deep gratitude for a number of members of the community who are serving the country by protecting it and allowing citizens freedom to continue doing the things that they enjoy. Mr. Graham wished citizens a happy and safe Fourth of July holiday.
- Mr. Schwartz stated those who live and work in Marshall have probably seen surveyors on Main Street in Marshall, which evidences the beginning of the Main Street rehabilitation project that will include undergrounding of overhead electric utilities, construction of new sidewalks, addition of street trees, and other improvements to Main Street. Mr. Schwartz added that there will be a number of meetings with property owners, business owners and residents who wish to provide feedback in the design process of these improvements, and that anyone who has questions about the project should not hesitate to contact him.
- Mr. Trumbo extended his congratulations to all of the 2010 high school graduates, particularly the graduating class of Kettle Run High School.
- Mr. Nyhous announced that the outdoor concert series of the Bluemont Concert will begin on Saturday, July 3, 2010, in Old Town Warrenton, and that further information can be found at www.bluemont.com. Mr. Nyhous announced the upcoming 60th anniversary of the Fauquier County Fair, which will be held July 15-18, 2010, at the Fauquier County Fairgrounds; he added that members of the Board of Supervisors will be serving dinner at the Fair's Blue Ribbon Dinner at 5:00 PM on Saturday, July 17th.

ANNOUNCEMENTS

- Mr. McCulla announced that on Friday, June 11, 2010, the Fauquier County Working Together Committee will host a charitable golf tournament at Kastle Greens Golf Club to benefit the Bright Stars Program.
- Mr. McCulla extended congratulations to graduating students from Fauquier County's three high schools with graduation ceremonies taking place at Kettle Run High School on Friday, June 11, 2010, at their football field; Fauquier High School on Saturday, June 12, 2010, at their football field; and Liberty High School on Sunday, June 13, 2010, at Jiffy Lube Pavilion in Gainesville, Virginia.
- Mr. McCulla announced that the Board of Supervisors will hold its next regular meeting at 6:30 P.M. on July 8, 2010, at the Warren Green Building located at 10 Hotel Street in Warrenton, Virginia.

AN ORDINANCE TO ESTABLISH A SEPARATE CLASSIFICATION OF PERSONAL PROPERTY WITHIN SECTION 8-29.2 OF THE CODE OF FAUQUIER COUNTY FOR GENERAL BUSINESS PROPERTY AND ESTABLISH RATES FOR SAME

A public hearing was held to consider an Ordinance to establish a separate classification of personal property within Section 8-29.2 of the Code of Fauquier for general business property and establish rates for same. Paul S. McCulla, County Administrator, summarized the proposed amendment to the County Code. No one else spoke. The public hearing was closed. Mr. Graham moved to adopt the following Ordinance. Mr. Stribling seconded, and following discussion, the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

ORDINANCE

AN ORDINANCE TO ESTABLISH A SEPARATE CLASSIFICATION OF PERSONAL PROPERTY WITHIN SECTION 8-29.2 OF THE COUNTY CODE FOR BUSINESS FURNITURE, FIXTURES AND EQUIPMENT

WHEREAS, Virginia Code §58.1-3506 provides that a County may establish separate classes of personal property applicable to certain business personal property; and

WHEREAS, Section 8-29.2 of the Code of Fauquier County establishes the separate classes of personal property for taxation purposes; and

WHEREAS, the Board of Supervisors intends to set out the several classes of business personal property as permitted by statute and designate such property as a separate class of tangible personal property; and

WHEREAS, the Board of Supervisors also intends to amend Section 8-29.2 of the Code of Fauquier County to providing for housekeeping changes to make the local ordinance consistent with the exiting re-codified state statutes on property previously set out as a local class; and

WHEREAS, the Board of Supervisors has held a public hearing to receive citizen comment on a proposed amendment of Section 8-29.2 to consider establishing such a separate category; and

WHEREAS, by the adoption of this ordinance the Board of Supervisors determines that it is in the best interest of the citizens and businesses of Fauquier County to establish such separate class of personal property; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 10th day of June 2010, that the calendar year 2010 tax rates for the following classes of property are hereby established as:

Business Furniture, Fixtures and Equipment	\$2.30 per \$100 of assessed valuation
Machinery and Tools	\$2.30 per \$100 of assessed valuation

; and, be it

ORDAINED FURTHER, That Section 8-29.2 of the Code of Fauquier County be, and is hereby, amended as follows:

Sec. 8-29.2. Separate classifications of tangible personal property for taxation.

Pursuant to authority granted by section 58.1-3506.A of the Code of Virginia, 1950, as amended, the items set forth below are declared to be a separate class of tangible personal property for taxation purposes:

- (1) Camping trailers, ~~and motor homes and horse trailers~~. Privately owned camping trailers and motor homes *which are used for recreational purposes only and horse trailers, pursuant to section 58.1-3506(18)46.2-100* of the Code of Virginia, 1950, as amended., ~~which are used for recreational purposes only.~~
- (2) Motor vehicles owned or leased by members of fire and rescue squads. One (1) motor vehicle which is regularly used and owned or leased (provided that the lease obligates the owner to pay tangible personal property tax on the vehicle) by a member of a duly authorized volunteer rescue squad or volunteer fire department to respond to calls shall be and is hereby classified as a separate class of tangible personal property. For purposes of this subsection, the term "member" is defined as any person listed as a member of a duly authorized volunteer rescue squad or volunteer fire department among the record of members kept by the clerk of the circuit court of the county and who has met the eligibility requirements as established by the county fire and rescue association. Notwithstanding the foregoing provisions of this subsection no motor vehicle shall be classified under this subsection unless, as of January 31 of each year, the volunteer shall have furnished the

commissioner of revenue a certification by the chief, that the volunteer is a member who regularly responds to calls and that the identified vehicle is regularly used for such purpose pursuant to section 58.1-3506.A.15 of the Code of Virginia.

(3) A. *The items of tangible business personal property in this group are also each declared to be a separate class of property however, for taxation purposes they shall constitute a single tax rate class, hereby designated as Business Furniture, Fixtures and Equipment:*

1. *All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 18, of §58.1-3506 except for subdivision A 17, of § 58.1-3503;.*

2. *Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;*

3. *Programmable computer equipment and peripherals employed in a trade or business;*

4. *Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;*

5. *Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;*

6. *Tangible personal property used in a research and development business;*

B. *The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1 through A 5, not exceed that applicable to the general class of tangible personal property and (ii) for purposes of subdivisions A 6, not exceed that applicable to machinery and tools.*

AN ORDINANCE EXEMPTING CERTAIN PERSONAL PROPERTY OWNED BY THE AMERICAN BIRD CONSERVANCY FROM TAXATION

A public hearing was held to consider an application from the American Bird Conservancy requesting that its property be classified as exempt from personal property taxation. Kevin J. Burke, County Attorney, summarized the application. No one else spoke. The public hearing was closed. Mr. Trumbo moved to adopt the following Ordinance. Mr. Stribling seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes:	Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo
Nays:	None
Absent During Vote:	None
Abstention:	None

ORDINANCE

AN ORDINANCE EXEMPTING CERTAIN PERSONAL PROPERTY OWNED BY THE AMERICAN BIRD CONSERVANCY FROM TAXATION

WHEREAS, Fauquier County Code Section 8-71 authorizes the Board of Supervisors to designate property as exempt from taxation where such property is held by organizations that use the property exclusively for religious, charitable, patriotic, historical, benevolent, cultural or public park and playground purposes; and

WHEREAS, Virginia Code §58.1-3651 sets forth the process and procedure by which a locality may designate property as tax exempt; and

WHEREAS, Virginia Code §58.1-3651.B requires that prior to the adoption of any Ordinance exempting property from local taxation, the Board of Supervisors shall hold a public hearing on the proposed application; and

WHEREAS, the Board of Supervisors, after due notice and public hearing, has considered the questions set forth in Virginia Code §58.1-3651.B and, upon consideration of those questions, has determined that the application for the proposed exemption from taxation should be granted; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 10th day of June 2010, That the personal property of The American Bird Conservancy be, and is hereby, declared as exempt from taxation for personal property taxes of the County; and, be it

ORDAINED FURTHER, That the continuance of this exemption shall be conditioned upon the continuous use of this property in accordance with the purpose for which this organization has been designated; and, be it

ORDAINED FINALLY, That this exemption shall be effective as of January 1, 2010.

AN ORDINANCE TO AMEND CHAPTER 17 OF THE FAUQUIER COUNTY CODE

A public hearing was held to consider proposed amendments to Chapter 17 of the Fauquier County Code. Frederick P.D. Carr, Director of the Department of Community Development, summarized the proposed amendments. The proposed changes to Article I Chapter 17 of the County Code, which was originally adopted in 1973, is to recognize changes in State regulation since its adoption and to better address current technologies. The proposed changes to Chapter 17 Article II address changes to the terminology related to onsite soil evaluators and impose bonding requirements on alternative systems. Mr. Carr recommended that that action be deferred on this matter pending further refinements to the Ordinance. Merle Fallon, Esquire, representing Raymond Farm, spoke in opposition to the proposed amendments, and suggested the Board of Supervisors seek the opinion of the Attorney General as to what is allowable under State law. Kitty Smith, Marshall District, recommended the public hearing remain open to allow for additional review by the Board of Supervisors. No one else spoke. Mr. Nyhous moved to continue the public hearing and postpone consideration of this matter for at

least thirty days and perhaps longer. Mr. Graham seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes: *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

AGFD10-MA-001: 3RD ADDITION TO THE ROUTTS HILL AGRICULTURAL AND FORESTAL DISTRICT (PIN #6971-86-4316-000, PATRICIA A. & EDWARD J. COLGAN, JR., TRUSTEES - MARSHALL MAGISTERIAL DISTRICT)

A public hearing was held to consider an application requesting one parcel totaling 37.3103 acres be added to the Routts Hill Agricultural and Forestal District. Andrew Hushour, Assistant Zoning Administrator, summarized the application. No one else spoke. The public hearing was closed. Mr. Graham moved to adopt the following Ordinance. Mr. Trumbo seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes: *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

ORDINANCE

AN ORDINANCE TO APPROVE THE 3rd ADDITION TO THE ROUTTS HILL AGRICULTURAL AND FORESTAL DISTRICT

WHEREAS, Section 15.2-4310, *Code of Virginia* (1950), as amended, allows additional parcels of land to be added to an existing District following the process described for the creation of a new District; and

WHEREAS, all requirements of Section 15.2-4310, *Code of Virginia* (1950), as amended, have been met; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 10th day of June 2010, That the 3rd Addition to the Routts Hill Agricultural and Forestal District be, and is hereby, adopted as follows:

- 1) That this addition is land which requires conservation and protection for the production of food and other agricultural and forestal products and, as such, is a valuable natural and ecological resource providing open space and clean air and adequate safe water supplies and other aesthetic purposes and is, therefore, valuable to the public interest.
- 2) That this 3rd Addition to the Routts Hill Agricultural and Forestal District is hereby added this 10th day of June 2010, in accordance with the provisions of Title 15.2, Chapter 43,

Section 15.2-4310, of the *Code of Virginia*, (1950), as amended, until the expiration of the District on June 30, 2015.

- 3) That the 3rd Addition shall consist of the following parcel(s):

PIN	OWNERS	ACREAGE
6971-86-4316	Patricia A. & Edward J. Colgan, Jr., Trustees	37.3103
	Total:	37.3103

; and, be it

ORDAINED FURTHER, That the following conditions and restrictions shall apply, to wit:

1. That pursuant to Title 15.2, Chapter 43, Section 15.2-4312 of the *Code of Virginia* (1950), as amended, the Fauquier County Zoning Ordinance shall apply except as modified below. These modifications are necessary to assure that the Ordinance does not conflict with the purpose for which the District was established.
 - a. All uses allowed by-right in the applicable zoning district(s) for each parcel listed shall require a special exception permit except for agricultural or forestal production and construction of dwellings for persons who earn a substantial part of their livelihood from a farm operation on the property or for members of their immediate family.
 - b. Subdivision of land as defined in Article 2-39 of the Fauquier County Subdivision Ordinance is not permitted.
 - c. No special exception permit shall be in conflict with the purposes for which the District was created.
2. That these parcels shall qualify for land use value assessment provided that the parcels meet the criteria of Article 4 of Section 58.1-3229 et seq. of Chapter 32 of Title 58.1 of the *Code of Virginia*.
3. That the owners of land within the District shall not terminate the District except as provided for in Section 15.2-4314 of the *Code of Virginia*.
4. That lawful termination of any owner's association in the District shall not serve to terminate the existence of the District, but the District shall continue in effect until the review required by Section 15.2-4311 of the *Code of Virginia*.
5. If any portion of a parcel less than 25 acres is sold, boundary line adjusted or divided then the entire parcel shall automatically be removed from the District.

6. If any portion of a parcel greater than 25 acres is sold, boundary line adjusted or divided to below 25 acres then the portion less than 25 acres shall automatically be removed from the District.

A ZONING ORDINANCE TEXT AMENDMENT TO SECTIONS 2-504 AND 5-1403 TO ALLOW THE PARKING OF AUTOMOBILES AND FARM EQUIPMENT IN REQUIRED YARD AREAS IN A COMMERCIAL OR INDUSTRIAL DISTRICT

A public hearing was held to consider a Zoning Ordinance text amendment to Sections 2-504 and 5-1403 to allow the parking of automobiles and farm equipment in required yard areas in a Commercial or Industrial District. Andrew Hushour, Assistant Zoning Administrator, summarized the proposed text amendment. The existing Zoning Ordinance regulations prohibit the by-right display and storage of goods offered for sale in required yard areas in any Commercial or Industrial zoning district. This limitation includes the storage of motorized vehicles such as automobiles and tractors that are available for sale, unless approved in conjunction with a special permit, although the Ordinance does allow off-street parking requirements for customers and/or employees to occur within required yard areas. The proposed text amendment would allow the Zoning Administrator to approve the by-right display of automobiles and similar motorized vehicles that are offered for sale within required yard areas subject to specific standards. Madge Eicher, Marshall District, spoke in opposition to the proposed amendments citing further refinements are needed so that enforcement can be uniform. Christer Carshult, Center District, suggested that action on this item be delayed to allow for an additional work session and further clarification of the proposed amendments. No one else spoke. Mr. Graham moved to continue the public hearing and postpone a decision on this matter until the next regular meeting on July 10, 2010. Mr. Trumbo seconded, and following discussion, the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

A ZONING ORDINANCE TEXT AMENDMENT TO SECTIONS 13-304 AND 13-402 TO REFLECT THE REDUCTION OF BOARD OF ZONING APPEALS (BZA) MEMBERS FROM SEVEN TO FIVE

A public hearing to consider a Zoning Ordinance text amendment to Sections 13-304 and 13-402 to reflect the reduction of Board of Zoning Appeals (BZA) Members from seven to five. Andrew Hushour, Assistant Zoning Administrator, summarized the proposed text amendments. At the February 18, 2010 meeting of the Board of Supervisors, the Board approved a Zoning Ordinance Text Amendment to reduce the number of members appointed by the Fauquier County Circuit Court to the Fauquier County BZA, from seven to five. The purpose of this proposed text amendment is to change the related provisions found in Sections 13-304.2 and 13-402.3 to reflect the approved reduction of BZA membership. No one else spoke. The public hearing was closed. Mr. Nyhous moved to adopt the following Ordinance. Mr. Graham seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes: *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

ORDINANCE

A ZONING ORDINANCE TEXT AMENDMENT TO SECTIONS 13-304 AND 13-402 TO REFLECT THE REDUCTION OF BOARD OF ZONING APPEALS (BZA) MEMBERS FROM SEVEN TO FIVE

WHEREAS, the *Code of Virginia* Section 15.2-2308.A. states that every locality that enacts a zoning ordinance shall establish a board of zoning appeals that shall consist of either five or seven members; and

WHEREAS, on February 18, 2010, the Fauquier County Board of Supervisors reduced the number of appointed BZA members from seven to five; and

WHEREAS, the amendments to Sections 13-304 and 13-402 are required to reflect this reduction of the number of appointed BZA members; and

WHEREAS, on March 11, 2010, the Board of Supervisors initiated the proposed text amendment; and

WHEREAS, on April 29, 2010, the Planning Commission held a public hearing and unanimously recommended approval of the proposed amendment; and

WHEREAS, on June 10, 2010, the Fauquier County Board of Supervisors held a public hearing on this amendment; and

WHEREAS, adoption of the attached amendment to Sections 13-304 and 13-402 supports good zoning practice, convenience and the general welfare; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 10th day of June 2010, That Sections 13-304 and 13-402 be, and are hereby, amended as follows:

13-304 **Decision on Appeals**

2. The concurring vote of ~~four (4)~~ three (3) members of the BZA shall be required to reverse any order, decision or determination of the Zoning Administrator under this Ordinance.

13-402 **Authorization**

3. The concurring vote of ~~four (4)~~ three (3) members of the BZA shall be required to authorize a variance.

A RESOLUTION TO APPROVE SPEX10-LE-019 - MOOTHRU, LLC (OWNER) / KEN SMITH (APPLICANT), MOOTHRU, LLC, PIN #6888-28-5394-000, LEE MAGISTERIAL DISTRICT

A public hearing to consider an application for a Category 13 Special Exception to allow a drive-through facility for a retail store that will sell mainly ice cream and dairy products. Mr. Smith is the owner of Cool Lawn Farm and intends to sell mostly products from his farm at the Moothru. The retail use is allowed by-right in the Commercial Highway (C-2) zoning district. The owner has an approved site plan for the retail store. The facility is currently designed so patrons park their vehicles and walk up to one of two service windows; there is no indoor seating. In addition to the dairy products, the applicant has submitted a list of accessory items he will be selling in the store. These items include beverages, hot dogs, prepackaged soups, deli style sandwiches, Panini sandwiches, micro waved pizzas and burritos. The facility is seasonal in nature, and will be closed three continuous months of the year. Holly Meade, Senior Planner, summarized the proposed application. Ken Smith, applicant, requested favorable consideration of the special exception application. No one else spoke. The public hearing was closed. Mr. Stribling moved to adopt the following resolution. Mr. Graham seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes: Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo
Nays: None
Absent During Vote: None
Abstention: None

RESOLUTION

A RESOLUTION TO APPROVE SPECIAL EXCEPTION SPEX10-LE-019 – MOOTHRU, LLC (OWNER)/KEN SMITH (APPLICANT) – APPLICANT WISHES TO OBTAIN A CATEGORY 13 SPECIAL EXCEPTION TO ALLOW FOR A DRIVE-THROUGH FACILITY IN CONJUNCTION WITH A FAST FOOD RESTAURANT

WHEREAS, the owner is seeking Category 13 Special Exception approval to allow for a drive-through facility on PIN #6888-28-5394-000; and

WHEREAS, the retail use is allowed by-right in the Commercial Highway (C-2) zoning district; and

WHEREAS, on May 27, 2010, the Fauquier County Planning Commission held a public hearing on the proposed Special Exception; and

WHEREAS, on June 10, 2010, the Fauquier County Board of Supervisors conducted a public hearing and considered written and oral testimony; and

WHEREAS, on June 10, 2010, the Fauquier County Board of Supervisors concurred with the Planning Commission and determined that the application satisfies the standards of Zoning Ordinance Article 5-006; and

WHEREAS, the Board of Supervisors supports local agricultural endeavors and the production of local agricultural products; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 10th day of June 2010, That SPEX10-LE-019 be, and is hereby, approved, subject to the following conditions:

1. The Special Exception is granted only for the purpose(s), structure(s) and/or uses indicated, and shall be in general conformance with the Special Exception Plat prepared by Brunk & Hilton Engineering, Inc., dated May 13, 2010, approved with the application, as qualified by these development conditions.
2. All on-site facilities and operations shall be in accordance with all applicable federal, state and local regulations at all times.
3. A metering method in accord with Virginia Department of Health requirements shall be implemented and an annual report addressing water usage shall be provided to the State Health Department.
4. The applicant shall sleeve the building sewer with Schedule 40 PVC pipe.
5. The applicant shall erect a fence between the drive-through feature and the dispersal/reserve fields, to prohibit vehicles from driving upon the on-site sewage dispersal/reserve areas. Water from roof drains shall be diverted away from these areas. Septic Tanks and Pump Chambers shall be protected by a fence or posts to prohibit vehicular traffic from driving over them.
6. The well shall be identified on any future plats by its well classification.
7. The owner shall place a sign at the end of the drive-through lane stating "Do Not Block Thru Traffic."
8. A site plan shall be required for the drive-through.

A RESOLUTION TO APPROVE SPEX10-CR-017, SPPT10-CR-019, AND SPPT10-CR-020 PHYLLIS ANN GIROUX (OWNER/APPLICANT) - DEEP RUN FARM (PIN #7825-74-5296-000, CEDAR RUN MAGISTERIAL DISTRICT) - APPLICANT WISHES TO RENEW A CATEGORY 9 SPECIAL EXCEPTION TO ALLOW FOR CLASS "C" DOG FIELD EVENTS AND TWO CATEGORY 13 SPECIAL PERMITS TO ALLOW FOR A KENNEL AND VETERINARY CLINIC

A public hearing was held to consider an application to renew a Category 9 Special Exception for Class "C" Events and two Category 13 Special Permits for a kennel and veterinary clinic. The previous permits have expired. Holly Meade, Senior Planner, summarized the application. No one else spoke. The public hearing was closed. Mr. Graham moved to adopt the following resolution. Mr. Stribling seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes: Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo
Nays: None
Absent During Vote: None
Abstention: None

RESOLUTION

A RESOLUTION TO APPROVE SPEX10-CR-017, SPPT10-CR-019, AND SPPT10-CR-020 – PHYLLIS ANN GIROUX (OWNER/APPLICANT) – DEEP RUN FARM (PIN #7825-74-5296-000, CEDAR RUN MAGISTERIAL DISTRICT – APPLICANT WISHES TO RENEW A CATEGORY 9 SPECIAL EXCEPTION TO ALLOW FOR CLASS “C” DOG FIELD EVENTS AND TWO CATEGORY 13 SPECIAL PERMITS TO ALLOW FOR A KENNEL AND VETERINARY CLINIC

WHEREAS, Deep Run Farm is seeking to renew a Category 9 Special Exception to allow for Class “C” Dog field events and two Category 13 Special Permits for a kennel and veterinary clinic on PIN #7825-74-5296-000; and

WHEREAS, Deep Run Farm has been in operation for the past twelve years; and

WHEREAS, on April 29, 2010, the Fauquier County Planning Commission held a public hearing on the Special Exception and Special Permit requests and unanimously recommended that the applications be approved, subject to conditions; and

WHEREAS, on June 10, 2010, the Board of Supervisors conducted a public hearing and considered written and oral testimony; and

WHEREAS, the Board of Supervisors has determined that the road frontage of the parcel will not cause an undue impact on the neighbors and will not adversely affect safety or road usage; and

WHEREAS, the Board of Supervisors concurred with the Planning Commission and agreed that the application satisfies the standards of Zoning Ordinance Articles 5-006, 5-916, 5-1301, and 5-1302; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 10th day of June 2010, That SPEX10-CR-017, SPPT10-CR-019, & SPPT10-CR-020 be, and are hereby, approved, subject to the following conditions:

1. The Special Exception is granted only for the purpose(s), structure(s) and/or uses indicated, and shall be in general conformance with the Special Exception Plat, approved with the applications, as qualified by these development conditions.
2. Any expansion of the use shall require amendment to this Special Exception approval.
3. All on-site facilities and operations shall be in accordance with all applicable federal, state and local regulations at all times.

4. The maximum number of Class “C” events permitted in a calendar year shall not exceed eight (8). Class “C” events shall be limited to Thursday through Saturday or Friday through Sunday, with no event exceeding three (3) days in duration. The hours of operation for each event shall be limited to 8:00 a.m. to 8:00 p.m. There shall be no more than forty attendees and forty dogs on any day of the event.
5. The special exception holder shall provide adequate security, emergency, traffic control, sanitation and refreshment services at every Class “C” event or activity. At least thirty (30) days prior to holding a Class “C” event the holder of the special exception for the property upon which a Class “C” event will be held shall provide to the Zoning Administrator written proof, including copies of any permits or licenses if required, from the following agencies that control traffic, security, emergency services, and on-site sanitary and refreshment facilities are adequate for the size and type of event or activity to be held:

Fauquier County Sheriff’s Office
Virginia Department of Transportation
Fauquier County Emergency Services Coordinator
Fauquier County Health Department
6. Shotguns are permitted to be used for the Class “C” events and shall not exceed 12 gauge in caliber.
7. The maximum daily number of dogs at the kennel shall not exceed seventy (70).
8. Hours of operation for the veterinary clinic shall be between the hours of 9:00 a.m. and 3:00 p.m., Monday through Saturday.
9. Entrance permits for both entrances shall be obtained from the Virginia Department of Transportation within two months of approval of the Special Exception and Special Permit applications.
10. The Special Exception and Special Permit approvals do not convey with the sale of the property.

AN ORDINANCE TO AMEND CPAM08-CR-005 - AN UPDATE TO THE CATLETT, CALVERTON, MIDLAND VILLAGE SERVICE DISTRICT PLAN, CHAPTER 6 OF THE FAUQUIER COUNTY COMPREHENSIVE PLAN

A public hearing to consider Comprehensive Plan Amendment #CPAM08-CR-005, to update the Catlett, Calverton, Midland Village Service District Plan, Chapter 6 of the Fauquier County Comprehensive Plan. Kristen Slawter, Senior Planner, summarized the proposed amendment. The proposed Plan before the Board of Supervisors dated June 10, 2010 reflects the majority of the recommendations by the Planning Commission in April 2009 for land use designations and transportation. The staff report summarizes the planning process and provides a link to this Board of Supervisors' Draft as well as the Draft that was recommended for approval by the Planning Commission one year ago. Bill Fendley, Cedar Run District, requested postponement of a decision on the amendment. Richard Gerhard, Cedar Run District; Suzanne Scheer, Cedar Run District; and Kitty Smith, Marshall District, spoke in support of the proposed

amendment. No one else spoke. Mr. Graham moved to continue the public hearing and postpone a decision on this matter until the next regular meeting on July 10, 2010. Mr. Trumbo seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes: *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

A PUBLIC HEARING ON A PROPOSED ORDINANCE AMENDING SECTION 8-5 OF THE CODE OF FAUQUIER COUNTY TO PERMIT YEAR ROUND QUALIFICATION FOR TAX RELIEF FOR THE ELDERLY AND DISABLED WHERE SUCH QUALIFICATION IS AS A RESULT OF THE DEATH OF A SPOUSE

A public hearing was held to consider an amendment to Section 8-5 of the Fauquier County Code to permit year round qualification for tax relief for the elderly and disabled where such qualification is a result of the death of a spouse. Paul S. McCulla, County Administrator, summarized the proposed amendment. The County currently has a tax relief program for the elderly and disabled. Under the current program, if one does not qualify for the program they must wait until the next year in order to join the program even if their circumstances change. The Ordinance, if adopted, would permit an elderly person whose spouse has died to qualify for the program at any time during the year. The Code of Virginia currently permits this change. According to the Commissioner of the Revenue, if the Board makes this change, Fauquier County will be the only jurisdiction in the State that would allow this year-long qualification based upon change of circumstances occurring as a result of the death of a spouse. No one else spoke. The public hearing was closed. Mr. Schwartz moved to adopt the following Ordinance. Mr. Graham seconded, and following discussion, the vote for the motion was unanimous as follows:

Ayes: *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

ORDINANCE

AN ORDINANCE AMENDING SECTION 8-5 OF THE CODE OF FAUQUIER COUNTY TO PERMIT YEAR ROUND QUALIFICATION FOR TAX RELIEF FOR THE ELDERLY AND DISABLED WHERE SUCH QUALIFICATION IS AS A RESULT OF THE DEATH OF A SPOUSE

WHEREAS, Section 8-5 of the Code of Fauquier County permits qualifying elderly and disabled individuals and couples to qualify for relief from taxation; and

WHEREAS, under the current tax relief for the elderly and disabled program, individuals who qualify for the program as a result of the death of a spouse but after the filing date must wait until the following tax year to be admitted to the program; and

WHEREAS, the Board of Supervisors, after due notice and public hearing, desires to amend the Code of Fauquier County to permit individuals who become eligible for the program as a result of the death of a spouse to enter into the program year round; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 10th day of June 2010, That Section 8-5 of the Code of Fauquier County be, and is hereby, amended as follows:

Sec. 8-5. Changes in ownership, income or financial worth.

(a) Any change in respect to total combined income, net combined financial worth, ownership of the dwelling exempted, or other factors, which occur during the taxable year for which the affidavit is filed, and which has the effect of exceeding or violating the limitations and conditions of this article, receive the exemption or deferral for the portion of the year during which he or she qualifies and lose the exemption or deferral only for the remainder of the year, and the taxable year immediately following. However, change in ownership to a spouse due to the death of the qualified individual will result in a prorated exemption for the then eligible year. Such prorated portion shall be determined by multiplying the amount of the exemption or deferral by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number of twelve (12) is the denominator.

(b) *An individual who does not qualify for the exemption under this article based upon the previous year's income limitations and financial worth limitations, may nonetheless qualify for the current year by filing an affidavit that clearly shows a substantial change of circumstances, that was not volitional on the part of the individual to become eligible for the exemption, and will result in income and financial worth levels that are within the limitations of the ordinance.*

A death of a spouse, resulting in loss of income during the current tax may qualify the surviving spouse provided that no other source of income with the exception of insurance proceeds is available to the surviving spouse. Upon filing an affidavit as prescribed by the Commissioner of the Revenue, that includes a copy of the death certificate and a federal tax return from the immediately preceding calendar year, the current year tax shall be prorated from the date the substantial change in income occurred.

Any exemption under this subsection is conditioned upon the individual filing another affidavit by March 1 of the year following the year in which the exemption was granted showing that the actual income and financial net worth levels were within the limitations set by the ordinance. If the actual income and financial net worth levels exceeded the limitations, any exemption granted shall be nullified for that taxable year and the taxable year immediately following.

**A PUBLIC HEARING TO OBTAIN CITIZEN INPUT CONCERNING THE
AMENDMENT OF THE FAUQUIER COUNTY TOWING ORDINANCES, FAUQUIER
COUNTY CODE CHAPTER 13, ARTICLE V**

A public hearing was held to consider proposed changes to the Fauquier County Towing Ordinances from the Fauquier County Towing Board and Sheriff's Office after approximately one year of experience with the regulations previously adopted by the Board of Supervisors on March 12, 2009 and amended and re-adopted on April 9, 2009. Kevin J. Burke, County Attorney, summarized the proposed amendment which will establish new standards for tow truck drivers, allow the Sheriff to establish fees and provide for their collection by the County Treasurer, clarify that only law enforcement officers may request additional assistance for a tower on-site, require towers to have the ability to accept either Visa or MasterCard in the field, clarify that all references to days are calendar days, change the open enrollment period and calendar year, add a duty that towers keep the peace and obey all laws, and set forth the requirements for notice of hearing decisions by the Chairman of the Towing Board. No one else spoke. The public hearing was closed. Mr. Stribling moved to adopt the following Ordinance. Mr. Graham seconded, and following discussion, the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

ORDINANCE

**AN ORDINANCE TO AMEND ARTICLE V OF CHAPTER 13 OF THE FAUQUIER
COUNTY CODE TO REGULATE LAW ENFORCEMENT TOWING**

WHEREAS, *Code of Virginia* § 46.2-1217 authorizes the governing body of any county to regulate law enforcement towing services by ordinance; and

WHEREAS, the Fauquier County Towing and Recovery Board met on May 26, 2010 and recommended that these amendments be made to the Fauquier County Ordinance that regulates law-enforcement requested towing; and

WHEREAS, the Board of Supervisors, after due notice and public hearing, has determined that it is in the best interest of the health, safety and welfare of the citizens of Fauquier County to amend this Ordinance; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 10th day of June 2010, That Article V of Chapter 13 of the Fauquier County Code be, and is hereby, amended, which Sections shall read as follows:

Sec. 13-65. Application for agreement.

- (a) Any tower desiring to perform towing work at the request of the sheriff's office or other law enforcement personnel shall submit an application for towing service in duplicate to the sheriff. Prior performance and reputation in the community, as reported through the sheriff's office and office of citizen and consumer affairs and criminal history record (in lieu of a criminal history record, a Commonwealth of Virginia Tow Truck Authorization Document will suffice) information as supplied by applicant, will be considered when a tower applies to perform towing services under this agreement.
- (b) In order to be qualified for towing under this article, a tower as defined in section 13-63, shall operate such business as defined in section 13-63 as a one-tower proprietorship owned and operated at one (1) location within the County or Town of Warrenton. Tower shall have operated such business at said location for a minimum of six months prior to applying for towing under this article. The six-month waiting period may be waived for applicants who are currently authorized to tow under this article. No relative/resident household member of the defined tower shall contract for towing under this towing agreement with county in the same location as the tower proprietor under this agreement for law enforcement towing requests.
- (c) A tower may not make any changes that alter the information that was submitted in the "application for towing service" unless first notifying the sheriff. Violation of this section may cause immediate suspension or termination.
- (d) The application shall be submitted on forms provided by the sheriff and include the following information:
- (1) The name of the towing company to include the owner(s), agent(s) and corporate officer(s).
 - (2) The home and business addresses and phone numbers of the tower owner(s), agents(s) and corporate officer(s).
 - (3) The name under which the person does business (T/A trading as).
 - (4) The location, size and security features of the storage lot on which the towed vehicles will be stored. The storage facility shall be described in detail to include the size, the lighting and the separate entrance. The storage facility may be a building or a lot which shall be a minimum of one thousand five hundred (1,500) square feet for regular towers or a minimum of three thousand (3,000) square feet for heavy-duty towers. The storage facility shall be located within the same wrecker zone in which tower is approved to operate in.
 - (5) The location in which the public must go to in order to claim stored vehicles. The location shall be within the tower's zone of operation.
 - (6) A statement of availability to provide towing service on a continuous twenty-four-hours-a-day basis each day of the year.
 - (7) A list of the towing equipment, its size and capacity. Towers shall maintain and register all trucks per requirements within Fauquier County. A copy of Fauquier County or Town of Warrenton property taxes showing taxes paid on trucks and equipment domiciled within the county or town and each vehicle registration must be submitted on an annual basis with application or reapplication.
 - (8) A complete list of insurance policies, carriers and agents which would be in effect upon execution of an agreement. Proof of the policy will be filed with sheriff. This information will include amount of coverage limits and include worker's compensation, if applicable.
 - (9) A statement that the tower accepts reasonable responsibility for any personal property left in towed and stored vehicles, as may be otherwise determined by law, along with a description of the secure place which will be used to store the property left in towed or stored vehicles. A statement that the tower accepts reasonable responsibility for a towed vehicle from the time hookup starts, until vehicle reaches the intended destination.
 - (10) Towers must list two (2) telephone numbers at which the tower can be reached on a twenty-four-hour-a-day basis. Specific times and days denoting business hours versus nonbusiness hours must accompany the telephone number. Name of business and telephone number must be posted in a conspicuous place at the place of business.
 - (11) A statement from the zoning office of the local government entity in which the towing business is located that the storage lot listed on the application meets all required zoning requirements.

(12) A statement from the Fauquier County Treasurer and/or the applicable town finance office that all financial obligations are paid.

(13) A copy of Fauquier County declaration of personal property or business personal property on registered equipment must be submitted annually.

(14) All towers and drivers shall be required to sign a statement verifying they are not currently on any state or federal list as a sex offender and are not required to register as a sex offender under any state, federal or local law of any foreign country.

(e) All applicants shall pay an application fee, as established by the Fauquier County Sheriff, remitted to and collected by the Fauquier County Treasurer.

(Ord. No. 09-04, 5-14-09, Ord. No. 10-____, 06-10-10)

Sec. 13-66. Inspections of authorized towers.

(a) All of the tow trucks, required equipment and storage facilities shall be inspected and approved by the sheriff prior to use. Tow trucks and required equipment shall meet the requirements of subsection 13-65(d)(7) above. In addition, all tow trucks and required equipment shall conform with the provisions of Code of Virginia, § 46.2-1000 et seq. The sheriff may periodically inspect all wreckers,

beyond their control such as natural equipment and storage facilities utilized under this article. The tow truck inspection shall take place at a location designated by the sheriff. Following inspection, if the tow truck passes inspection, a ~~sheriff's office inspection~~ Fauquier County tow sticker will be placed on the tow truck. There will be an annual inspection of all wreckers, equipment and storage facilities utilized under this article. For heavy-duty wreckers a CVSA sticker will also be required.

(b) There shall be an annual inspection fee, as established by the Fauquier County Sheriff, remitted to and collected by the Fauquier County Treasurer. Upon presentation of documentation that the tower's vehicle successfully passed inspection and payment of the established fee, the Treasurer shall issue the tow sticker to the tower.

(c) The sheriff shall give the tower written notice when the equipment or storage facility is found to be unacceptable.

(d) Unacceptable tow trucks and equipment or storage facilities shall not be used by a tower in the performance of its obligations under a towing service agreement until replaced, repaired or the problem is otherwise corrected.

(e) Failure to comply with any of the conditions stated above in subsections (a), (b), (c) or (d), or (e) shall result in suspension of the tower from the list until the corrections have been made. If the corrections are not made within ten calendar (10) days, the tower shall be terminated from the towing list.

(Ord. No. 09-04, 5-14-09, Ord. No. 10-____, 06-10-10)

Sec. 13-68. Duties and requirements of authorized towers.

(a) Towers shall, at the request of and as directed by the sheriff's office or other law enforcement personnel, tow vehicles in the County or Town of Warrenton in a manner that is damage-free to the vehicle being towed and by the most direct route. Towers shall comply with all applicable federal, state and local laws, including but not limited to, the securing of all necessary federal, state and local licenses. All towers that tow under this article shall display a WT-Tag (tow truck for hire) and/or an IRP-Tag (international registration plan). All towers must be current in all financial obligations to the County, Town of Warrenton and federal government.

(b) All towers shall have the firm's name, town, state and telephone numbers printed on both sides of the towing vehicle in letters and numerals of such size, shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is not in motion. No magnetic or stick-on sign shall be used on vehicles. Decals are permissible. The tower shall provide a business card to the investigating officer or person in apparent control of the vehicle before leaving the scene. Each tower must be registered with the Virginia Department of Motor Vehicles in the name of the towing service and

insured by the towing service. Dealer tags shall not be displayed on wreckers that respond to service requests.

(c) Towers shall provide twenty-four-hours-per-day towing service each day of the year.

(d) Towers shall have available at all times sufficient and qualified personnel to receive calls and execute the towing.

(e) Towers shall have either one (1) regular wrecker or one (1) rollback to perform services under this article.

(f) Towers shall have on duty at all times sufficient personnel to maintain constant contact with the sheriff's office by telephone and to dispatch for towing as requested by the sheriff's office or other law enforcement personnel. Towers shall notify the sheriff during normal business hours forty-eight (48) hours prior to a change in their phone number. No answering service is allowed without specific authorization from the sheriff's office.

(g) Time is of the essence in the performance of the services. The tower agrees to arrive on the scene within thirty (30) minutes of receiving a call. If the tower fails to meet the specified time limit, the sheriff's office or other law enforcement personnel will notify a second tower. Once the second tower has been requested, services from the first tower is considered canceled and neither the sheriff's office, other law enforcement personnel, nor the vehicle owner are liable for any payment to the first tower notified. Tower is required to meet the thirty-minute time limit. Heavy-duty towers will have a forty-five-minute time limit to arrive on scene.

(h) The tower will not be held responsible for unavoidable delays caused by circumstances disasters, or acts of God. However, if in the judgment of the sheriff, excessive delays are caused by circumstances within the tower's control such as negligence, lack of manpower, poorly conditioned equipment, etc., the sheriff may recommend tower be suspended/terminated from the list.

(i) Towers shall have only those tow trucks owned or lease purchased by them responding to sheriff's or other law enforcement personnel's calls for service. Calls shall not be passed on to another tower.

(j) If a tow truck is not available, then the tower shall immediately indicate to the dispatcher that it cannot respond and the reason why. The dispatcher shall then notify the next tower on the list.

~~(k) If upon arrival at the scene of a sheriff's or other law enforcement personnel's call for service the tower determines that the equipment he has brought will not be sufficient, he will be permitted by the sheriff's deputy or other law enforcement personnel to contract with another tower on the Fauquier County towing list to assist on the scene if tower feels that additional assistance is necessary in order to effectuate a safe and damage free tow. If no towers are available from the Fauquier County towing list, the tower shall contact law enforcement approved towing firm located in the closest adjoining locality to the accident.~~
If, upon arrival at the scene of a Sheriff's or other law-enforcement personnel's call for service, the tower determines that the equipment he brought will not be sufficient and he needs additional assistance, he may request additional assistance through the Sheriff's deputy or other law-enforcement personnel. If the law-enforcement personnel approve the request, he/she shall notify Communications to contact another tower on the Fauquier County Towing List to assist on the scene. If no towers are available from the list, Communications shall contact a law enforcement approved towing firm located in the closest adjoining locality to their location.

(l) All equipment used by towers must be maintained in good working order along with all required equipment required by section. See attached equipment list:

(1) All loads shall be secured with two-wheeled straps or safety chains.

(2) Each tower must be equipped with legally required lighting and other safety equipment to protect the public and such equipment must be in proper working order.

(3) Tow wrecker/wrecker/flatbed wrecker must display a Fauquier County tow inspection sticker.

(m) Towers may use crossovers located on the interstate or public highway that are prohibited when directed to do so by the sheriff's office or any other law enforcement officer pursuant to Code of Virginia § 46.2-920.1.

(n) All towing operators must possess a valid Virginia driver's license or commercial driver's license, and medical certificate as may be required and be qualified to operate the tow vehicle and its equipment. It will be the tower's responsibility to ensure all their towing operators meet these requirements.

- (o) All operators shall decline a service call if they consumed alcohol and or used any drug or narcotic, either by a doctor's prescription or of his own free will within eight (8) hours prior to a call for service. No operator shall be allowed to operate a towing vehicle when responding to a call for service while under the influence of any alcohol, narcotics or drugs regardless of the level of such substance in their bloodstream when responding to a sheriff's or other law enforcement personnel's call for service.
- (p) Towers shall remove all litter, glass and debris caused by the incident which necessitated towing, including ordinary and reasonable quantities of oil and gas spillage as determined by the law enforcement officer on the scene. This shall be routinely done at no additional cost. If circumstances warrant additional charges, they will be thoroughly documented and itemized.
- (q) All towing firms shall ~~should~~ have the capability to accept cash and either Visa or Mastercard ~~or at least one (1) form of credit card~~ as payment for services under the agreement in the field at the time services are rendered.
- (r) The towing service shall tow vehicles to any destination requested by the vehicle owner or any other person with apparent authority, after financial obligations have been finalized.
- (s) Any tower permanently ceasing to provide towing/recovery services shall, within fifteen (15) days, notify the board in writing and return the board issued sticker for voluntary cancellation and termination.
- (t) All towers and drivers shall meet the minimum training standards and attend continuing education programs approved by the board.
- (u) All towers and drivers shall keep the peace and not violate any laws of the Commonwealth of Virginia or any local ordinances that are considered a felony or misdemeanor.

(Ord. No. 09-04, 5-14-09, Ord. No. 10-____, 06-10-10)

Sec. 13-71. Rotation system.

- (a) The sheriff shall ensure that towers are called on a rotating basis according to the list of the area to which they are assigned. Being placed on the towing rotation list does not guarantee a particular number or quantity of calls, does not guarantee an equivalent number of calls to every tower on the list, nor entitle any tower on the list to any compensation as a consequence for not being called in accordance with the list or when removed from the rotation list. The rotation wrecker list shall be valid for the calendar year and will be separated into two (2) categories, tow and service. A wrecker service on an annual basis must complete an initial application or a renewal application to the sheriff during the open enrollment period of ~~November 1 to November 30~~ May 1 to May 31 each calendar year. The open enrollment period for 2010 shall be June 11 to June 30. The calendar year shall be ~~July 1 to June 30~~ January 1 to December 31.
- (b) The owner or operator of a vehicle to be towed shall be ~~asked~~ allowed to specify the tower of his choice, whether or not authorized by the sheriff or other law enforcement personnel, unless the vehicle constitutes a traffic hazard and the requested tower will have an unacceptable response time.
- (c) The sheriff or other law enforcement personnel shall not call any tower who does not have an agreement with the sheriff's office unless all towers on the towing list are unavailable or an emergency exists.
- (d) In an emergency a patrol supervisor may call a tower out of sequence in order to shorten response time to the scene of the incident. The senior patrol supervisor on duty may temporarily suspend the towing list for reasons such as, but not limited to, bad weather and any unusual events. However, any towers which are randomly used at the request of a deputy or other law enforcement personnel during suspensions of the list must be reported to communications for record purposes. In the event that a tower responding to a call is not used, for reasons not the fault of the tower, tower will be placed back on the top of the rotation list.
- (e) The deputy or other law enforcement personnel at the scene may reject the services of the tower dispatched when said tower arrives with inadequate equipment to perform the tow. Unfitness shall include, but not limited to, possession of inadequate equipment to perform the tow, or operated by personnel who, due to drugs, alcohol or other incapacity, are not likely to perform the tow safely. In the event that the tower is determined to be unfit, the deputy or other law enforcement personnel shall notify communications to dispatch the next tower on the list, shall report said decision to the senior patrol supervisor on duty, and shall file a written report with the sheriff.

(f) The sheriff's office or other law enforcement personnel will call another tower if the first tower fails to answer the telephone or receives a busy signal after two attempts.

(g) This is an equal call system, giving each tower in a zone equal opportunity to respond. If a tower does not answer the telephone or refuses the call, the tower loses that turn in rotation and will not be called until the list rotates to their name again. If a tower responds to a call, it shall be placed at the bottom of the rotation list, unless the tower through no fault of its own is not used and receives no compensation for the call. In that event, it shall be placed back at the top of the rotation list.

(Ord. No. 09-04, 5-14-09, Ord. No. 10-____, 06-10-10)

Sec. 13-75. Complaints.

(a) Any tower who believes he has been unfairly treated by any law enforcement personnel may file a complaint against that person. Such complaint shall be in writing and directed to the executive head of that law enforcement agency.

(b) Any person who believes a violation of this article has occurred may file a complaint against such tower. The complaint shall be in writing and directed to the sheriff. The sheriff's office will provide the complainant with a complaint form to be filled out and returned to the sheriff. The complaints shall be investigated by the sheriff or his designee.

(c) After an investigation of the complaint, the sheriff shall notify the complainant of the results of the investigation and any action as a result of the complaint.

(d) The local office of the Virginia State Police and the Warrenton Police Department shall use the towing list on law enforcement requested calls in Fauquier County. By agreement with the local office of the Virginia State Police, the sheriff shall investigate towing complaints for both state and county calls. Any imposed disciplinary action shall be binding on all law enforcement initiated calls for towing service.
(Ord. No. 09-04, 5-14-09)

Sec. 13-77. Appeals process and hearing.

(a) In the event that a member of the towing panel lodges a complaint against another tower, said towing panel member shall be excused from the hearing.

(b) The sheriff or his designee shall be responsible for presenting the allegations against a towing company to the towing panel members and may call witnesses and ask questions of any witness.

(c) The tower will be allowed to present evidence/testimony supporting his/her case to the towing panel. If complainant is not present, the complaint form will be presented to the towing panel as complainant's evidence/testimony.

(d) The accused towing company (owner or manager) shall be allowed an opportunity to attend the hearing and bring any witness(es) that were directly involved in the incident where the accused towing company was charged with a violation of this article. The owner or manager may make an opening statement, ask witness(es) questions and make a closing statement.

(1) No attorney(s) will be allowed to attend this administrative hearing on behalf of a complainant or defendant.

(2) No witnesses, except for those being questioned, will be allowed in the room during the administrative hearing.

(e) The towing panel, after hearing evidence presented, shall render a decision. The sheriff shall not be present during deliberations or voting.

(f) At the conclusion of the hearing if the tower is present, the chairman presiding over the hearing shall immediately verbally notify the accused towing owner in writing of the towing panel's decision. A written notification shall be prepared and sent to the tower through first-class postage with the U.S. Postal Service and a copy of the decision will be sent to the sheriff. If the tower is not present at the conclusion of the hearing to receive the verbal notification of the panel, the tower shall waive the right to immediate notification of the decision.

(g) When a tower is aggrieved by the decision of the towing panel, he may, within ten calendar (10) days of the date of the decision~~notification of such decision~~, appeal the decision to the board of supervisors (the board). Such appeal shall be made in writing to the sheriff and shall state the specific act (or failure to act) and/or the specifics for the appeal. The appeal must be filed within ten (10) calendar days of the hearing regardless of whether the tower received verbal notification at the conclusion of the hearing or whether the tower only received notification by mail.

(h) Upon an appeal under this section, the board shall consider whether the decision of the towing panel, based on the record before the towing panel, was based on a reasonable application of the prescribed standards. The hearing by the board shall be a de novo hearing. When the board finds the towing panel's decision reasonable, the board shall affirm; if unreasonable, the board may modify and affirm or reverse the decision.

(i) The board shall act upon any appeal filed under this section within fourteen calendar (14) days, unless there is no meeting scheduled, in which case the board shall act at its next regular meeting. Failure of the board to act within this time shall be deemed approval of the towing panel's decision.

(j) The decision of the board, in an appeal under this section, shall be final. In the event, the board, after hearing the appeal, refers the matter back to the towing panel, the decision of the towing panel shall be final.

(Ord. No. 09-04, 5-14-09, Ord. No. 10-____, 06-10-10)

With no further business, the meeting was adjourned at 7:59 P.M.

I hereby certify that this is a true and exact record of actions taken by the Fauquier County Board of Supervisors on June 10, 2010.

Paul S. McCulla
Clerk to the Board of Supervisors